

REMARKS

Claims 1-21 remain herein. No claims have been added or cancelled.

Upon review of the history of this case, Applicants believe that the written record has resulted in a clear impasse. Applicants therefore request that the Examiner contact the undersigned at the below listed number upon receipt of this response to set up a personal interview with both the Examiner and his supervisor to discuss the pending rejections before the case proceeds to the appellate review. The following arguments represent both Applicants' response to the Office Action and the topics that Applicants will discuss at the interview.

Claims 1-6 and 17-22 have been rejected under 35 U.S.C. § 103 as obvious over James in view of Bennington. Claims 7-14 and 16 have been rejected under 35 U.S.C. § 103 as obvious over James in view of Collins. Claim 15 has been rejected under 35 U.S.C. § 103 as obvious over James in view of Collins and Lui. Claims 17-22 have been rejected under 35 U.S.C. § 101 as non-statutory subject matter.

Independent claims 1 and 17 have been rejected under 35 U.S.C. § 103 as obvious over James in view of Bennington. Applicants respectfully traverse the rejection.

Claim 1 recites "providing a continuous real-time clock to a non real-time simulator." The office Action equates the "continuous . . . clock" limitation with various teachings in James, col. 4. Applicants' prior response pointed out that the citations from James did not show a continuous clock:

Applicants have reviewed the cited disclosure of James in view of the assertions contained in the Office Action and find minimal correlation between the two. For example, the Office Action states at ¶ 3.1 that James teaches “*providing a continuous clock* (Col. 4 lines 6-8 more specifically ‘. . . continuous model cycle times’ and regarding the clock see Col. 4 lines 11-33 more specifically ‘. . . it accepts clock source input. . . ’ to a non real-time simulator.” Yet nothing in this citation, or any portion of column 4, teaches a continuous clock. The fact that the word “continuous” appears in one paragraph of column 4 and “clock” appears in the next does not amount to a continuous clock.

Applicants’ Amendment Under 37 CFR 1.111, page 7 (emphasis in original). The current Office Action does not engage on the above argument. Thus, Applicants are left with nothing to respond to, other than to restate the point as set forth above. At the interview, Applicants request that the Examiner explain on what basis on a continuous clock is considered present in view of the Applicants’ prior arguments.

The next element of claim 1 that is not present in James is the provision of a clock - real time or otherwise - to the non-real time simulator. On this point, the Office Action takes inconsistent and irreconcilable positions on the teachings and application of the references. Specifically, the rejection as set forth in prior Office Action states that the James clock is input to the non-real time simulator. This is simply not true. As Applicants pointed out in their prior response, James specifically states that when operating in its real time mode, it receives as inputs either a clock source 16 or a user command input 18, but in a non-real time mode (which the Office Action equates with the claimed non-real time simulator), it accepts only the user input. The clock is not an input to the James non-real time mode at all.

The current Office Action obfuscates matters by creating uncertainty as to what specific modification is proposed to James. If the Office Action proposes that the James clock could be

substituted with a real time clock, then combination fails for the same reasons discussed in Applicants prior response. James' non-real time simulator simply doesn't accept the clock signal. Modifying the clock signal to a real time clock signal does not change the fact that the non-real time mode does not accept it, such that the claim language is not met.

To the extent that the Office Action proposes that the Bennington clock should be input to the James non-real time mode as an additional element, such a position is simply untenable. Of two possible inputs in James – a clock and a user command – James “only” accepts the user command in the non-real time mode. The key to the “only” language of James is that, in the presence of a clock signal, James specifically and expressly is designed to neither receive and/or use that clock signal. It thus does not matter whether the “only” limits or allows for the presence of other types of signals, as implied in paragraph 2.2 of the current Office Action, a clock signal is not one of them.

The additional citation of Bennington does nothing to overcome James express teachings not to use a clock. Bennington uses a real time clock for its simulator, but such teaching does nothing that would independently motivate such use in the James environment that expressly rejects the use of a clock. Thus, for example, there is no teaching or suggestion in Bennington that its real time clock was introduced to replace a system in which use of a clock was specifically rejected. Absent such a specific and focused teaching, the general knowledge of real time clocks in simulators is insufficient to overcome James' specific teachings against the use of a clock in its non-real time mode.

The Office Action also cites a “market forces” theory to justify the combination. Yet the Office Action does not identify what market forces are at play. It is unclear as to what basis the Office Action considers a market for non-real time simulators exclusive to those that use real-

time clocks to the exclusion of products that do not. It is unclear as to what specific products or market studies the Office Action relies upon to support a market factors based motivation.

Applicants therefore request that the Examiner provide appropriate evidence – to the extent it exists - to support the position that market forces are providing motivation for the proposed combination.

Applicants also note that the Office Action’s combination of James and Bennington proposes no enabling scope or result. As presented, the Office Action would take the structure of James as shown in one of its drawings, and then somehow connect a real time clock into that structure as an experiment. However, the Office Action proposes no basis as to how this would be done. The Office Action provides no basis as how one of skill would connect a clock to a system that is designed not to accept a clock. The Office Action provides no basis as how one of skill would configure James to run off a clock when it was specifically designed not to run off a clock.

The flaws of the Office Action’s rejection continues with the next claim element of “synchronizing a simulation clock of the non real-time simulator with the continuous real-time clock on a continuous basis.” As discussed above, James is not receiving a clock at all, and thus there is no “simulation clock of the non real-time simulator” to synchronize with at all. Nor has any motivation or suggestion been provided as to why this non-existent “simulation clock of the non real-time simulator” be combined with the newly added real time clock from Bennington. Absent such suggestion, the rejection cannot stand.

Accordingly, independent claims 1 and 17 teach a combination of features that are patentably distinct over the applied art. Withdrawal of the rejection and allowance of the same are therefore respectfully requested.

Claims 2-6 and 18-22, which depend from claims 1 and 17, respectively, have also been rejected under 35 U.S.C. § 103 as obvious over James in view of Bennington. For the reasons discussed above with respect to the independent claims, the rejection of these dependent claims is likewise improper.

In addition, Applicants continue to observe minimal correlation between the cited disclosures of James in view of the assertions contained in the Office Action for these dependent claims. For example, paragraph ¶ 3.2 of the prior Office Action states that “James teaches *advancing the non-real time simulator to a second time based on the simulation clock reaching the second time* (Col. 3 lines 65-67).” As Applicants’ prior response states, this portion of James says nothing of the kind:

The simulation executive controls the execution dispatch of each process within each subsystem component. Simulation execution proceeds as a succession of cycles, or frames.

The current Office Action does not engage on the above argument, instead simply cutting and pasting the prior rejection into the current Office Action. Thus, Applicants are left with nothing to respond to, other than to restate the point as set forth above. At the interview, Applicants request that the Examiner explain on what basis the above citation of James meets the claim language.

Accordingly, claims 2-6 and 18-22 are patentably distinct over the applied art.

Withdrawal of the rejection and allowance of the same are therefore requested.

Claims 7-14 and 16 have been rejected under 35 U.S.C. § 103 as obvious over James in view of Collins. Claim 15 has been rejected under 35 U.S.C. § 103 as obvious over James in view of Collins and Lui. Applicants traverse the rejections.

The deficiencies of James have been discussed at length above. The additional citations of Lui for its teachings of a radio and Collins for its teachings of a control module and a real time clock do not cure these deficiencies. James' non-real time mode does not accept any clock signals, regardless of whether the clock signal is real time or a control module is in place. The rejection may therefore not be properly maintained. Withdrawal of the rejections of claims 7-16 and allowance of the same are therefore requested.

Claims 17-22 have been rejected under 35 U.S.C. § 101 as non-statutory subject matter. Per the Office Action, the claim is non-statutory because the computer-readable medium could be the Internet, which includes wires. Applicants traverse the rejection.

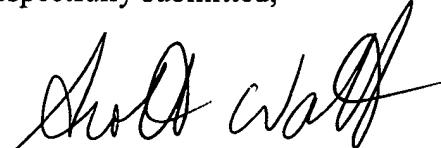
Applicants specification identifies that the Internet may be a computer readable medium. Applicants are unaware of any finding or regulation by the Patent Office holding that the Internet is not a computer readable medium. To the contrary, many patents have issued specifically identifying the Internet or similar network as a computer readable medium. Non-limiting examples include: U.S. Patent 7,085,998 (claiming a computer readable medium and disclosing in the specification that the medium may be network circuit); U.S. Patent 6,950,948 (“34. The computer-readable medium of claim 28 wherein the computer-readable medium is an Internet connection link . . .”).

The Office Action nonetheless takes the position that since the Internet includes wires, it is unclear whether Applicants are claiming that a wire is a computer readable medium. Applicants find the position strained. A wire is clearly not the Internet, and the Internet is clearly not just a wire. The description in the application that the Internet is a computer readable medium does not therefore fairly teach, imply or ultimately claim that a single wire is a computer readable medium. Indeed, Applicants are unaware of any regulation or finding by the Patent

Office that a medium is not considered a computer readable medium because it includes as part of the whole some non-computer readable medium components that allow the medium to operate. (The argument is equivalent to stating that a human being does not have a memory because a human being includes a thumb, and a thumb does not have a memory.) The inquiry is whether a potential medium – in this case the Internet - qualifies as the computer readable medium. Clearly it does. Withdrawal of the rejection of claims 17-22 on this basis is therefore requested.

Accordingly, the application is now fully in condition for immediate allowance and a notice to that effect is respectfully requested. The PTO is hereby authorized to charge/credit any fee deficiencies or overpayments to Deposit Account No. 19-4293 (Order No. 12492.0288). If there are any questions, the Examiner is invited to call applicants' undersigned attorney at the number listed below.

Respectfully submitted,



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